

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION**

**COMPLAINT AGAINST:**

Hon. Wade H. McCree  
Wayne County Circuit Court  
Frank Murphy Hall of Justice  
1421 St. Antoine, Room 202  
Detroit, Michigan 48226

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**Formal Complaint No. 93**

**COMPLAINT**

The Michigan Judicial Tenure Commission (“JTC”) files this complaint against the Honorable Wade H. McCree (“Respondent”), judge of the 3<sup>rd</sup> Circuit Court, County of Wayne, State of Michigan. This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

1. Respondent is, and at all material times was, a judge of the 3<sup>rd</sup> Circuit Court, County of Wayne, State of Michigan.
2. As a judge, Respondent is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

## **COUNT I**

### **IMPROPER CONDUCT – PEOPLE V. KING**

3. On March 12, 2012, pursuant to MCL 750.165, a felony warrant was issued against Robert King (“King”) for failing to pay child support, under 36 District Court Case No. 2012-57181.
4. The complaining witness/custodial parent in *People v. King* was Geniene LaShay Mott (“Mott”).
5. Following a March 21, 2012 arraignment before 36<sup>th</sup> District Court Magistrate Renee R. McDuffee, the case was transferred to Respondent’s docket under Circuit Court Case No. 12-003141-01-FH.
6. On March 28, 2012, the case was scheduled for arraignment on the information, preliminary examination and dispositional conference before Respondent.
7. On March 28, 2012, with King and Mott present before him, Respondent conducted an arraignment and accepted defendant’s waiver of the preliminary examination.
8. On March 28, 2012, Respondent also conducted a dispositional conference, thereafter adjourning *People v. King* to May 21, 2012 for a pre-trial.

9. On May 21, 2012, with Mott and King present before him, Respondent accepted King's guilty plea to the charge of failing to pay child support, MCL 750.165.
10. King's plea was pursuant to MCL 771.1(1), Michigan's delayed sentence statute.
11. Under the terms of the plea agreement, King was obligated to make timely payments of \$280.50 per month in child support and \$50.00 per month in arrearages.
12. Under the terms of the plea agreement, King was also ordered to make a \$400.00 payment at the time of the plea and a \$1,000.00 payment by April 19, 2013.
13. Following King's guilty plea, Respondent scheduled the case for review hearings on August 16, 2012 and November 15, 2012.
14. On or about May 21, 2012, Respondent reviewed the Friend of the Court as well as the Prosecutor's file on *People v. King* and obtained Mott's personal information, including her personal phone number.
15. At the conclusion of the May 21, 2012 proceedings, Respondent provided Mott with his judicial business card and requested that she contact him.
16. On or about May 22, 2012, Mott called Respondent's court and left a message for Respondent to return her call.

17. On or about May 22, 2012, Respondent contacted Mott by phone and made plans to meet her for lunch on May 30, 2012.
18. On May 30, 2012, Respondent accompanied Mott to lunch.
19. On May 30, 2012, Respondent and Mott exchanged cell phone text messages in which Respondent suggested that they “get their calendars together...” and meet again.
20. Beginning on May 30, 2012, and until mid-November of 2012, Respondent remained in contact with Mott in person, by e-mail, by telephone or by cell phone text messages.
21. Between May and mid-November of 2012, Respondent exchanged numerous cell phone text messages with Mott.
22. Between May and mid-November of 2012, Respondent exchanged numerous computer email messages with Mott.
23. Between May and mid-November of 2012, Respondent repeatedly discussed the merits of *People v. King* with Mott.
24. Between May, 2012 and mid-November, 2012, Respondent became involved in a sexual affair with Mott.
25. The sexual acts between Respondent and Mott took place at various locations, including Respondent’s judicial chambers.

26. On numerous occasions, Respondent escorted Mott into the courthouse through the building's back entrance, reserved for judges, court employees and members of the Wayne County Sheriff's Department.
27. On numerous occasions, Respondent escorted Mott into his judicial chambers.
28. On numerous occasions between May and mid-November of 2012, Respondent permitted Mott to remain in his judicial chambers while he was on the bench adjudicating his criminal docket.
29. Respondent instructed Mott to keep him informed whether King was complying with his delayed sentence agreement by making timely child support payments.
30. On August 16, 2012, *People v. King* was scheduled for a review hearing to determine whether King complied with the terms of his delayed sentence plea agreement.
31. Prior to the August 16, 2012 review hearing Mott advised Respondent that King was not in compliance with his delayed sentence agreement.
32. On August 12, 2012, in response to Mott's texted suggestion to impose a jail sentence until or unless King paid \$2500.00 in cash, Respondent stated, via text message, that:

I figured if hasn't come current by his courtdade, he gets jail 2 pay. If he says he can bring me the \$\$, I'll put him on a tether till he brings the receipt 2 FOC or do 'double time'.

33. On August 12, 2012, Respondent exchanged additional text messages with Mott discussing King's sentence.
34. Respondent engaged in other discussions of *People v. King* with Mott, including on, but not limited to the following dates:
  - a. August 16, 2012
  - b. September 18, 2012
  - c. November 15, 2012
35. Prior to the review hearing Respondent also engaged in ex parte discussions of *People v. King* with the Assistant Prosecuting Attorney ("APA") Sharon Grier.
36. At least as early as August 12, 2012, Respondent was aware that King was on probation to Oakland County Circuit Court.
37. At least as early as August 12, 2012, Respondent was aware that a felony conviction or a jail sentence imposed in his court would be a violation of King's probationary status in Oakland County, exposing King to a ten-year prison sentence.
38. On August 16, 2012, Respondent assisted Mott in bringing her cell phone into his courtroom, in violation of a "no cell phones" security policy of the Frank Murphy Hall of Justice.

39. On August 16, 2012, Respondent sentenced King to a tether until the amount of \$672.00, outstanding under the delayed sentence agreement, was paid in full.
40. As part of the sentence, Respondent ordered that failure to pay the \$672.00 by August 29, 2012 shall result in the cancellation of King's delayed sentence agreement and the entry of a felony conviction.
41. Respondent then adjourned the case until August 29, 2012.
42. The sentence Respondent imposed on the defendant in *People v. King* on August 16, 2012 was consistent with Respondent's prior discussions with Mott on August 12, 2012, August 15, 2012 and August 16, 2012.
43. Respondent continued to engage in ex parte discussions of *People v. King* with Mott after the August 16, 2012 review hearing.
44. Respondent failed to disqualify himself from *People v. King* and/or failed to have the case transferred to another judge until September 18, 2012.
45. On September 18, 2012, at approximately 8:46 am, Respondent sent the following text message to Mott regarding the transfer of *People v. King* to the docket of the Hon. James Callahan:

Running upstairs 2 C if Judge Callahan will 'take'  
Brother King's case. I'll B N touch w/a quickness:-)

46. On September 18, 2012, at approximately 9:48 am, Respondent sent the following text message to Mott regarding the transfer of *People v. King* to the docket of the Hon. James Callahan:

DONE DEAL!!!:-). I told a story so well, I had me believing it!! Brother King is on his way 2 'hangin' Judge Callahan. He fuck up Once (sic) & he's through!!

47. In the process of transferring *People v. King* to the docket of the Hon. James Callahan, Respondent provided false information to APA Grier as well as to the Chief Judge Timothy Kenney.
48. On November 15, 2012, *People v. King* was scheduled for another review hearing before the Hon. James Callahan.
49. On November 15, 2012, Respondent engaged in additional discussions of *People v. King* with Mott, via cell phone text messaging.
50. Based on Mott's requests, Respondent discussed *People v. King* with the prosecuting attorney, Sharon Grier, and then conveyed that information to Mott.
51. Between May and November of 2012, Respondent discussed with Mott the pending JTC investigation into his conduct of texting a photograph of himself, nude from the pubic region up, to a female deputy of the Wayne County Sheriff's Department.

52. Respondent repeatedly requested, via text messages and emails, that Mott keep their relationship “quiet” in light of her case pending before him and the pending JTC investigation.

53. As early as June 20, 2012, Respondent sent an email to Mott in which he stated:

My Judicial Tenure Commission matter has me nervous, as you might expect. I have to be **real** careful until this matter is put to rest. I can only ask humbly for your indulgence. Sorry. Second, you are the complaining witness on a case that is before me. Naturally if it got out that we were seeing each other before your B.D.’s case closed, everybody could be in deep shit. (emphasis in original)

54. On or about November 1, 2012, Mott informed Respondent that she was pregnant with his child.

55. On or about December 6, 2012, Mott disclosed the details of her affair with Respondent, including her pregnancy, to Fox 2 News reporter Charlie LeDuff.

56. On or about December 6, 2012, Fox 2 News broadcast a report, in which Respondent’s text messages discussing King’s sentence with Mott, were displayed.

## **COUNT II**

### **FALSE REPORT OF A FELONY**

57. On or about November 20, 2012, Respondent made a “stalking/extortion” complaint against Mott with the Wayne County Prosecutor’s Office.
58. During the investigation into the above allegations, Respondent provided false information to the investigative team of the Prosecutor’s Office, including but not limited to:
- a. That he had transferred *People v. King* immediately upon starting his relationship with Mott.
  - b. That Mott demanded ten thousand dollars in return for terminating the pregnancy and for not revealing Respondent’s affair with her to Respondent’s wife.

## **COUNT III**

### **IMPROPER CONDUCT – PEOPLE V. TILLMAN**

59. On January 4, 2012, pursuant to MCL 750.165, a felony warrant was issued against Damone Tillman (“Tillman”) for failing to pay child support, under 36th District Court Case Number 2012-055049.
60. The defendant in *People v. Tillman* is Mott’s cousin.

61. Following an arraignment on the warrant, conducted on January 11, 2012 by the 36<sup>th</sup> District Court Magistrate Charles W. Anderson III, *People v. Tillman* was transferred to Respondent's docket and assigned Circuit Court Case No. 12-000686-01-FH.
62. On January 18, 2012, Respondent accepted Tillman's guilty plea to failure to pay child support and scheduled the sentencing for April 17, 2012.
63. On April 17, 2012, Respondent issued an arrest warrant for Tillman's failure to appear.
64. On April 19, 2012, Respondent sentenced Tillman to probation, conditioned on timely payment of his child support and arrearage obligations.
65. On October 31, 2012, Respondent issued a bench warrant against Tillman for violation of probation.
66. On November 8, 2012, the Hon. Kevin Robbins, in Respondent's absence, set a \$500.00 cash or surety bond for Tillman.
67. Tillman was incarcerated at the Wayne County Jail – Dickerson facility under an erroneous designation of "remand," which prohibited his release on bond.
68. On November 13, 2013, the *People v. Tillman* case was not scheduled on Respondent's docket.

69. On November 13, 2012, Mott advised Respondent that she and her family “will be in [Respondent’s] courtroom shortly on Damone Tillma case...”(sic)
70. On November 13, 2012, Mott and her family appeared in Respondent’s courtroom.
71. Based on his ex parte communications with Mott, on November 13, 2012, Respondent signed an Order for Reduction of Bond.
72. Respondent issued the Order for Reduction of Bond without any motions having been made.
73. Respondent’s issuance of the “Order for Reduction of Bond” was not conducted on the record.

#### **COUNT IV**

#### **IMPROPER BENCH CONDUCT AND DEMEANOR**

74. Between May and November of 2012, Respondent transmitted numerous text messages to Mott while adjudicating the cases on his docket.
75. Respondent transmitted to Mott text messages containing inappropriate and sexually explicit comments, including, but not limited to the message Respondent transmitted to Mott on June 20, 2012:

Oh yeah, I text from the bench. After last nite, its all I can do not 2 jerk off ‘under’ the bench:-).

76. On June 30, 2012, Respondent transmitted to Mott a cell phone message from the bench in which he stated:

C'mon, U'r talking about the 'docket from hell', filled w/tatted up, overweight, half-ass English speaking, gap tooth skank hoes...and then you walk in.

77. Numerous text messages Respondent transmitted from the bench contained inappropriate and/or derogatory references to defendants, litigants, or witnesses appearing before him, including, but not limited to the following text message transmitted to Mott on September 10, 2012:

...funny, I just had Monica Conyers' nephew B4 me (ignorant shit...as usual).

78. Respondent transmitted text messages to Mott from the bench during court proceedings in which he made inappropriate and derogatory references to other members of the bench and/or employees of the court.
79. Additional dates on which Respondent transmitted cell phone text messages from the bench to Mott discussing his cases and/or parties include, but are not limited to the following:

- a. June 21, 2012
- b. September 4, 2012
- c. September 10, 2012
- d. September 19, 2012
- e. September 26, 2012
- f. October 3, 2012
- g. October 9, 2012
- h. October 16, 2012

- i. October 25, 2012
- j. October 30, 2012
- k. November 1, 2012
- l. November 2, 2012
- m. November 5, 2012
- n. November 6, 2012
- o. November 13, 2012

## **COUNT V**

### **MISREPRESENTATIONS TO THE COMMISSION**

80. In his answers to the Commission, dated February 22, 2013, Respondent stated that he had “irrevocably” terminated his relationship with Mott on October 31, 2012.

81. That representation was false as Respondent actually continued his affair with Mott into November of 2012 as evidenced by various text messages between the parties, including but not limited to the following texts Respondent transmitted to Mott:

a. November 2, 2012:

Why is it that ALWAYS when I’m the slightest bit delinquent responding U ‘conclude’ that I don’t want U.”

b. November 6, 2012 (referring to his wife):

What she wants may change, but I’ll bet she’d really C me ‘crumble’ if I have the kid AND no \$\$ after she gets hers. Gameplan has 2 B that Consent Judgment.

c. November 8, 2012:

I'LL C U 2MORROW, & WE'LL 'HAVE FUN':-)

82. In his answers to the Commission, dated February 22, 2013, Respondent stated that he told Mott to keep their affair confidential only to keep his wife and family from learning of it.
83. That representation was false as Respondent in fact instructed Mott to keep their affair secret on several occasions because of a pending 2012 JTC investigation into his conduct of texting what appeared to be a nude photograph of himself to a female member of the Wayne County Sheriff's Department.
84. In his answers to the Commission, dated February 22, 2013, Respondent stated that he filed for a divorce from his wife to keep Mott from disclosing their affair to his wife and family and to persuade Mott to terminate her pregnancy.
85. That representation was false, in that at the time Respondent filed the divorce complaint on October 11, 2012, Respondent was not aware of Mott's pregnancy.
86. In his answers to the Commission, dated February 22, 2013, Respondent stated that he did not take any action on *People v. Tillman* in November or December of 2012.

87. That representation was false, in that on November 13, 2012, Respondent, sua sponte, signed an “Order for Reduction of Bond.” There was no motion filed to reduce bond, nor were there any on-the-record proceedings.
88. In his answers to the Commission, dated February 22, 2013, Respondent stated that he did not know of any familial relationship between Tillman and Mott.
89. That representation was false, as Respondent was informed by Mott that Tillman was her cousin.

The conduct described above constitutes:

- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205.
- (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205.
- (c) Conduct which is prejudicial to the proper administration of justice, in violation of MCR 9.104 (1).
- (d) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2).

- (e) Conduct which is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).
- (f) Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).
- (g) Lack of personal responsibility for your own behavior and for the proper conduct and administration of the court in which you preside, contrary to MCR 9.205(A).
- (h) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1.
- (i) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A.
- (j) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A.
- (k) Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's

confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B.

- (l) Conduct in violation of the Code of Judicial Conduct, Canon 2C that a judge should not allow family, social, or other relationships to influence judicial conduct or judgment.
- (m) Conduct in violation of the Code of Judicial Conduct, Canon 2C that a judge should not use the prestige of office to advance personal business interest or those of others.
- (n) Failure to be faithful to the law, contrary to the Code of Judicial Conduct, Canon 3A(1).
- (o) Conduct in violation of Code of Judicial Conduct, Canon 3A(3) that a judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity.
- (p) Conduct in violation of Code of Judicial Conduct, Canon 3A(4) that a judge shall not initiate, permit, or consider ex parte communications.
- (q) Conduct in violation of Code of Judicial Conduct, Canon 3B(1) that a judge should diligently discharge administrative responsibilities, maintain professional competence in judicial

administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

- (r) Conduct in violation of Code of Judicial Conduct, Canon 3C that a judge should raise the issue of disqualification whenever the judge has cause to believe that grounds for disqualification may exist by MCR 2.003(B).
- (s) Conduct in violation of MCR 2.003.
- (t) Conduct in violation of MCL 750.505.
- (u) Conduct in violation of MCL 750.411a

Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint and nine copies thereof must be filed with the Commission within 14 days after service upon Respondent of the complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment, misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action under the complaint.

**JUDICIAL TENURE COMMISSION  
OF THE STATE OF MICHIGAN**

3034 W. Grand Boulevard, Suite 8-450  
Detroit, Michigan 49202

By: \_\_\_\_\_/s/  
Paul J. Fischer (P35454)  
Examiner

March 12, 2013